

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. 9652-93134)

In the Application of:)	
Herman Dettwiler)	Confirmation No. 4040
)	
Serial No. 10/511,615)	Art Unit 3681
)	
Filed: July 21, 2005)	Examiner:
)	David D. Le
)	
For: DEVICE FOR CONVERSION)	
OF MOVEMENT)	

PETITION TO REVIVE UNDER 37 C.F.R. § 1.137(a)

Box Petitions
Hon. Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Applicant respectfully request that the above captioned application be revived. Applicant avers that the entire delay in reply by Applicant was unavoidable. Applicant encloses, herewith, the reply required by the outstanding Notice of Non-Compliant Amendment (37 C.F.R. 1.121). Should the Commissioner determine that a fee is due for this petition he is authorized to charge that fee and any additional fee to Deposit Account No. 23-0920.

Applicant is represented by the law offices of Husch Blackwell Sanders LLP Welsh & Katz (previously Welsh & Katz Ltd.) having an office at 120 S. Riverside Plaza, 22nd Floor, Chicago, Illinois 60606 (hereinafter "HBSWK").

Applicant has been prosecuting this application since its filing date in July of 2005 and desires to have a patent on the invention. To that end, Applicant responded, through its attorney, to an outstanding Office Action on November 27, 2007 believing that a full response had been made. Unknowingly, Applicant's attorney inadvertently missed labeling a sheet of drawings with

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an appropriate heading. This caused the United States Patent and Trademark Office to issue a Notice of Non-Compliant Amendment on December 4, 2007.

Applicant's attorney did not receive the Notice of Non-Compliant Amendment and did not learn of the issuance of the Notice until June 10, 2008, after the date when a response could be filed, when coincidentally Applicant's representative in Europe called Applicant's attorney to discuss a matter related to the present application. Applicant immediately called to speak with the Examiner of the present application. The Examiner was kind enough to move the application forward to abandonment so that Applicant's attorney could quickly move to revive the application through this petition. The abandonment of the application was received on June 26, 2007 in the offices of HBSWK and Applicant has taken every step to petition to revive the application without delay.

Applicant's attorney has investigated the above facts and has determined that the Notice of Non-Complaint Amendment was not received in its offices. The investigation of the facts has determined that in accordance with the practices of Applicant's attorney's office, every item of correspondence received via US Mail from the United States Patent and Trademark Office is received in the HBSWK mail room and brought directly to the HBSWK docketing office. On the day of receipt, the correspondence is copied and a copy is given to each of at least two attorneys having responsibility for the application to which the correspondence relates. A further copy, known as the *chronological file copy*, is made and placed in a file dedicated to all correspondence received from the USPTO, along with all other correspondence received from

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the USPTO on the date received. This last copy is kept as a continuous record of all correspondence received in the HBSWK office from the USPTO in a file with all other correspondence received and is kept in chronological order. The original correspondence from the USPTO is then reviewed by the docketing staff and any due dates for response or other correspondence are entered into the HBSWK computer docketing system. The original is then placed in the firm file of the application. See Declaration of Monica Pauly, attached hereto.

This is the process followed for every item of correspondence received from the USPTO; no deviation from this process is permitted. According to the head of the HBSWK docketing department no deviation from this process has occurred. See Declaration of Monica Pauly, attached hereto.

According to the Declaration of Monica Pauly, she received a telephone call from attorney Daniel M. Gurfinkel, the attorney most responsible for the prosecution of the present application, requesting that she check the docketing department computer records to find if an Office Action had been received by HBSWK for the above application. Ms Pauly checked the HBSWK docketing program and determined that no Office Action had been docketed for that file on or about that date. She then checked the chronological file to see if the paper had been received. She checked through several weeks of received correspondence around the December 4, 2007 date and did not find any correspondence for the present Application. She states, Declaration of Monica Pauly that other matters mailed by the USPTO on December 4, 2007 were

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found in the chronological file but that the Notice of Non-Compliant Amendment of December 4, 2007 was not.

Ms Pauly has determined, based on her review, that the Office Action in question had not been received, Declaration of Monica Pauly. Because the Office Action was not received Applicant's Attorney had no chance to file a response thereto and as such the delay in Applicant's response was unavoidable.

Consideration of Applicant's petition and withdrawal of the holding of abandonment is respectfully requested.

Respectfully submitted,



Daniel M. Gurfinkel
Attorney for Applicant
Registration No. 34,177

July 21, 2008
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